

SMARA UPDATE



The Quarterly Newsletter of the Department of Conservation - Office of Mine Reclamation

State Mining and Geology Board Without a Quorum

Since April 30, 1999, the State Mining and Geology Board has been without a sitting quorum and cannot conduct business until a quorum is established. The board is composed of nine individuals appointed by the governor in four year staggered terms. The Senate must confirm each member within one year of his or her appointment.

The board's current membership is four, which is one less than the number

necessary for a quorum. Former member Julie Mann resigned from the board in August, 1998, and former members Ben Licari, James Lee, and Sheila Murphy were awaiting Senate confirmation when their names were removed from the Senate Rules Committee list following the change of administration in January. Former member Lee Thibadeau's term expired in

"The governor's office is aware of the board's lack of a quorum and is working diligently to fill these vacancies at the earliest possible date."

Governor's Appointment Office

March 1999.

The board continues to function at the committee level, and monthly committee meetings are conducted to maintain the board's business. Upon the re-establishment of a quorum, committee recommendations will be presented to the full board for action.

DOC Expands Compliance Focus

Earlier this spring the department notified a number of lead agencies by letter that they were behind in conducting their annual SMARA inspections. In a few cases, our notice reminded the lead agency that it had not once inspected the mining operations within its jurisdiction. Needless to say our letter generated a number of phone calls and response letters to this office, some wondering what had prompted our action.

A focus on annual inspections is the next step in a series of progressive enforcement actions that the Department of Conservation began two years ago to promote compliance with SMARA's requirements. The department's initial efforts were directed at those remaining operators who had not obtained an approved reclamation plan and financial assurance. Administrative penalties were levied against

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DOC Expands Compliance Focus

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mine operators who failed to comply even after the department's "good faith" program. In a few cases, the department director issued Cease to Operate orders to gain a resistant operator's compliance and cooperation. Where necessary, these penalties have been enforced through the Department of Justice. With a program in place to address recalcitrant mine operators, the department is now turning its attention to lead agencies and their responsibilities under SMARA.

A query of our database on February 1, 1999, indicated that 78 local lead agencies had either not completed annual inspections for 1998 (or longer) or had failed to submit the required inspection reports to this office. Under SMARA, lead agencies are required to conduct an inspection of a surface mining operation within six months of receipt by the lead agency of the surface mining operation's annual report (PRC §2774(b)). This section further stipulates that, "In no event shall a lead agency inspect a surface mining operation less than once in any calendar year." The purpose of the inspection is to determine whether the surface mining operation is in compliance with the provisions of SMARA.

When conducting annual inspections, lead agencies are required to use an inspection form approved by the State Mining and Geology Board. Lead agencies are allowed to recoup the reasonable cost of the inspection from the mine operator. Within 30 days of completing an annual inspection, a lead agency is required to notify this office that the inspection has been conducted. The notice is to include a statement regarding the surface mining operation's compliance with SMARA, a copy of the completed inspection form, and indicate which aspects of the surface mining operation are not in compliance, if any.

Annual inspections are important to ensure that the spirit and intent of SMARA are carried out. That said, it is understandable why a lead agency short on resources (the case in most rural areas) may give low priority to assigning staff the duty of inspecting local mining operations. Given a choice between working on a new development project with all of its economic benefits or conducting a mine inspection, well...it's easy to guess where the emphasis will be placed. Nonetheless, the ramifications of not conducting annual SMARA inspections make the investment of time well worthwhile.

First and foremost is the need to avoid the environmental damage and public safety problems that can occur at non-compliant sites. Second, keep in mind that mined lands can be reclaimed to other beneficial end uses such as housing, industrial or business parks and even recreational parks. These types of uses can add significantly to the local economy and tax base. Ensuring that the reclamation process is kept on course and that the land is returned to a usable condition is critical to a community's future growth and prosperity.

In our letter, we asked lead agencies who have not conducted the requisite inspections to do so immediately; and for those who have inspected but neglected to submit the inspection reports to do that immediately as well. We want to thank those lead agencies that have responded to our request. The effectiveness of SMARA depends on the ability of lead agencies to fully administer as well as comply with the Act's requirements. The department has embarked upon an effort to draw attention to this fact and will continue to work with lead agencies to ensure successful compliance.

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Reporting Fees Increased

As most mine operators have already discovered, the annual report forms for the 1998 calendar year included a 9 percent increase in reporting fees. One exception to this increase is for those mine operations within 9 percent of the \$2,000 limit. These operators will now be paying the \$2,000 maximum amount. While not as severe as the 35% percent increase in fees that mines experienced last year, this year's increase does signal an end to the downward trend in reporting fees from 1993 through 1996.

State law (PRC §2207(d)(3)) limits the amount of money that the Department of Conservation may derive from SMARA reporting fees to \$1 million plus adjustments for the annual cost of living beginning with the 1991-92 fiscal year. Depending on the cash balance on hand at the beginning of the fiscal year, the State Mining and Geology Board must adjust fees up or down to meet program funding needs while remaining within the statutory cap. This requirement is significant because, while maintaining adequate program funding, it ensures that excess collections will be returned to mine operators through lower fees in the next reporting year.

Reporting fees during the first few years of the department's reporting and compliance program were fairly high. A producer of 1,000 to 10,000 tons of aggregate product paid \$800 in reporting fees in 1992 and 1993. Due to a significant number of non-filers being located and brought into reporting compliance, the department built up a large fund reserve which allowed fees to be reduced significantly from 1994 through 1996. The same aggregate producer that paid \$800 in fees in 1992 and 1993, paid \$500 in 1994, and \$350 in both 1995 and 1996. Other reporting categories received similar reductions.

Unfortunately, the fund reserve that allowed these fee reductions to occur was drawn down significantly by 1996, resulting in the 1997 and 1998 fee increases. Still, the aggregate producer mentioned above will be paying less in fees this year than it did in 1993 (\$525 vs. \$800). That is true for most reporting categories. While that's the good news, the bad news is that without an expansion of the reporting base, fees are likely to continue to inch up in future years.

The Office of Mine Reclamation strives to run an efficient reporting and compliance program. This

year's fee increase will cover the continuing operation of the program and includes no new positions. We will continue to do our best to ensure that mine operators, especially small and medium sized ones, pay fair and equitable reporting fees in the future.

*Glenn Stober,
Assistant Director*

DOC Expands Compliance Focus

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The Office of Mine Reclamation is happy to assist lead agencies with any questions they may have regarding the inspection process. OMR staff is also available on a limited basis to accompany lead agency personnel on inspections. To take advantage of OMR staff expertise, please contact the Reporting and Compliance Unit staff representative for your county by calling (916) 323-9198 or you may e-mail us at omrcal@consrv.ca.gov.

*Glenn Stober,
Assistant Director*

Message from the Director

With the economy booming and population projections for the next 20 years showing significant increases, infrastructure improvement has been getting significant attention from the Davis Administration. This will undoubtedly require a multitude of state-sponsored construction projects.

While the state suffered through a severe recession during the first part of the decade, the state now is in a position to act on major infrastructure projects. As a jumping off point, in January the governor created the Commission on Building the 21st Century. The commission has already provided some initial recommendations for addressing the state's infrastructure needs.

Whether it's building new roads and bridges, mass transit systems, telecommunications infrastructure, new schools or improving our state parks, many of the materials needed to get the job done will come from mining operations throughout the state. The aggregate for roads and bridges, metals and silica used for computers and telecommunications components, and the industrial minerals needed to keep the

economy humming, mining will be critical to the state's ability to address its infrastructure goals.

Because of this critical role, the identification of mineral resources of future importance will remain a key function for the department to play in the 21st century. The department's mineral classification reports allow local communities to make well-informed land use decisions. Without the classification work the department performs, some of those mineral resources would be lost to alternative development that would preclude future extraction of those resources. The department remains committed to providing these reports as a useful tool for land use decisions.

Of course, along with the potential business opportunities for the mining industry, there will be the ongoing obligation for operators, lead agencies and the Department of Conservation to ensure safe, environmentally sound mining and reclamation practices. The department will continue to work with operators and lead agencies to assist in compliance with Surface Mining and Reclamation Act standards and regulations.

As California moves into the

next millennium, the Department of Conservation will continue to fulfill its mission to promote the use and development of mineral resources consistent with sound conservation practices.

Nursery Sources for California Native Plants

Looking for sources of California native plants for your revegetation project? Nursery Sources for California Native Plants, Open File Report (OFR) 90-04, was recently revised and updated by MaryAnn Showers, Environmental Specialist with the Office of Mine Reclamation. The guide identifies a total of 135 nurseries that stock native California plants. A list of these suppliers including their name, address and phone number is included in the guide.

Approximately 1600 different kinds of native California plants are listed alphabetically by scientific name. The publication will be available for purchase from the Division of Mines and Geology Order Desk for \$10 beginning in August. For ordering information please call (916) 445-5716.

*Jim Pompy,
Reclamation Manager*

Executive Officer's Report

At its March 11, 1999 regular business meeting held in Sacramento, the State Mining and Geology Board took the following action on these SMARA issues:

1. The board certified new SMARA ordinances for the following lead agencies: City of Irwindale; City of Rialto; City of Twentynine Palms; County of Mendocino; and County of San Mateo. These new certifications are the result of the board's program to encourage lead agencies with pre-1991 ordinances to bring their ordinance into accordance with current SMARA.

2. The board accepted the 1998 Annual Mine Reporting Fees Schedule as recommended by the board's Policy Committee and as being in accordance with California Code of Regulations § 3695 et seq. These fees are reflective of the costs to operate the Department of Conservation's SMARA programs.

3. The board approved a revised financial assurance amount for Teichert & Son, Inc.'s Martis Valley Mine operations in the Town of Truckee. The town has not adopted a SMARA mining

ordinance, and the board is the acting lead agency for the mine.

4. The board convened a special hearing to review an order to cease mining operations issued by the director of the Department of Conservation made pursuant to SMARA §2774.1(a) for 11 mine sites in San Bernardino County. These mine sites are owned by Sanwa Bank and were being operated by West Coast Rock (formerly Calico Rock). The order was issued on January 28, 1999. SMARA §2774.1(b) provides that orders issued by the director pursuant to subsection (a) do not take effect until the operator is provided a hearing before the board. Only two of the mine sites had approved reclamation plans and none had approved financial assurances. The board upheld the closure order which became effective at midnight, March 12, 1999.

*John Parrish, Ph.D.
Executive Officer*

The Abandoned Mine Lands Unit now has a toll free number for the public to use to report abandoned mines. If you know of or find an abandoned mine please call:

1-877-OLD MINE

**Remember to stay out
and stay alive!**



Compliance Corner

For many lead agencies, enforcing SMARA's requirements on non-compliant operators is a difficult task. That is why recent actions by Mariposa County demonstrate the county's commitment to achieving an effective SMARA program and establishing an equitable playing field for all mining operators in the county's jurisdiction.

On April 7, 1999, Mariposa County, accompanied by the county sheriff's department and Pacific Gas & Electric Company (PG&E), enforced a court order to cease operations against Mariposa Aggregates. This action was the culmination of many failed attempts by both the county and the state to gain Mariposa Aggregates' voluntary compliance with SMARA's requirements for a permit, reclamation plan and financial assurance.

With two administrative penalties issued by the Department of Conservation already pending against the operator, Mariposa County entered a Preliminary Injunction Order against the operator in October 1998. In November, the operator was given an extension of time to comply with the order

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Reclamation Tips



ESTABLISHMENT PHASE MONITORING AND MAINTENANCE

Establishment phase monitoring, or horticultural monitoring, refers to monitoring that occurs immediately following planting and continues until plants have become established, usually the first growing season. This is a time of intensive, qualitative monitoring with subsequent adjustments to the planting design. Small acts of intervention at this point in the revegetation process can realize huge cost savings later.

If plants are exhibiting stress due to nutrient deficiencies or drought, fertilization and supplemental watering can be added to the site to prevent a high level of mortality. The classic signs of drought stress are crisp brown leaves or spots on leaves, with older leaves falling from the plant. A little water to augment a dry spell may make the difference during the establishment phase. It is common to add supplemental water to a site between rainfall events and during the first growing season. Supplemental water is added infrequently (no more than once per week, usually once per month) and

consists of deep watering, not shallow. Deep watering encourages deep root development. The goal on most rehabilitation sites is to establish a drought resistant vegetative cover, not one dependent on irrigation. Therefore, irrigation should be used sparingly.

Classic signs of nutrient stress are as follows:

Symptom	Possible Nutrient Stress
Stunted plant leaves that are more yellowish than are normal for that species	Nitrogen (N) deficiency
Stunted plant with purple or bronze leaves	Phosphorous (P) deficiency*
Stunted plant with leaf tip and marginal burn first on lower leaves and later advancing up the plant with the leaves	Potassium (K) deficiency
Terminal leaf buds fail to develop fully and new leaves are incompletely formed or have irregular margin shapes	Calcium deficiency
A yellowing of leaves (like nitrogen deficiency), but with the veins remaining green	Magnesium deficiency
A yellowing of leaves and stunted growth (like nitrogen deficiency), and the veins remain green (as with magnesium deficiency), but the plant exhibits unnaturally curled leaves	Iron deficiency

* A newly installed plant may exhibit phosphorous deficiency signs because of the lack of root growth. Such a plant would be better treated with a mixture of N and P to promote root growth, rather than just P alone.

*Gail Newton,
Environmental Program Manager*

Compliance Corner

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but failed to meet the December 24, 1998, deadline. In February 1999, Mariposa Aggregates was again ordered by the county to cease all mining activities at the site and obtain the necessary permits and financial assurance. The operator again refused to comply with the county's order.

As a last resort, Mariposa County sought and won a court order from Mariposa County Superior Court that directed PG&E to disconnect all power to the property. The court order also allowed the county to take whatever other actions were necessary to prevent the operator from conducting further mining activities on the property. With the court's authorization, the county disabled the mining equipment on-site making it inoperable.

Mariposa County is the first lead agency that we are aware of that has obtained a court order to close down a non-compliant mining operation. It was not the county's desire to take this unprecedented action but they felt they were left with no other alternative. The disabling of the site will make it difficult and expensive for Mariposa Aggregates to reinstate operations and hopefully will be the incentive for the company to come into compliance. These actions also

send a clear message that the county will not tolerate ongoing violations of SMARA.

*Pam Ceccarelli,
Compliance Engineer*

and

*Adele Lagomarsino,
Compliance Analyst*

Financial Assurance Tips



Editor's Note: This article was contributed by Victoria Bryan, Reclamation Bonding Specialist with the U.S. Department of the Interior, Office of Surface Mining.

The U. S. Treasury Department recently published its updated list of registered surety companies in Circular 570. Federal agencies and bonds with federal obligees may only be accepted if they are written by a surety listed in Circular 570. The circular is published every July 1 and is updated continuously thereafter. In order to be included in the list, surety companies must apply to the Treasury Department each year. The list contains surety company names, addresses, licensing states, and per bond

underwriting limitations. The footnotes to the circular contain information about fraudulent companies whose names are similar to legitimate surety companies. When the Treasury Department terminates a surety company from the list, this is indicative that the surety company is in a weak financial position. The list can be viewed or downloaded at www.fms.gov.c570/index.html.

Although not required to do so, many state and local agencies use the circular as a reference. For example, when reviewing a reclamation surety bond written by a surety company listed in the circular, we recommend that the bond amount be checked to determine if it exceeds the surety company's underwriting limitation. If an existing federal bond's sum exceeds the current underwriting limitation (as of July 1, 1999), then the surety should provide the agency with evidence of coinsurance or reinsurance for the amount that exceeds the limitation. The Treasury Department provides a "Federal Reinsurance Form" for this purpose.

Maps as Management Tools

Editor's Note: This article is excerpted from Best Management Practices for Reclaiming Surface Mines in Washington and Oregon, Open File Report 96-2 published by Washington State Department of Natural Resources and Oregon State Department of Geology and Mineral Industries. This is the first of an on-going series of articles that will be excerpted from the report.

Preparing accurate maps of the mining property and its surroundings is a key step in developing a surface mining operation. Maps allow geographic information to be summarized in a compact form. Their primary purpose is to describe geographic features and the spatial relations of these features. Maps benefit the operator by clearly defining the area in which mining is permitted, and they assist in long-range planning for both efficient use of the mine resource and timely reclamation.

To meet regulatory requirements, maps must provide sufficient detail to characterize the site. Types of maps that may be required for various permit applications

include:

- ◆ A *site access map* showing the regional setting of the site and how to get there from the nearest town.
- ◆ A *pre-mining topographic map* establishing the location and setting of the mine site as it exists before mining.
- ◆ A *geologic map* giving a detailed description of the geologic setting and the type of deposit to be mined.
- ◆ A *reclamation sequence map* showing the borders and sequence of segments to be mined and reclaimed, including the directions in which soils will be moved during salvage and replacement, and the location of storage areas and other mine-related features.
- ◆ A *final reclamation map* and at least two intersecting cross sections showing the mine site as it will appear after reclamation and revegetation.
- ◆ A *revegetation map* showing the location and types of plants used for revegetation. (This may be combined with the final reclamation map if the information will not obscure contours.)

Basic elements that should be included on every map are the:

- map scale, both written out as a ratio and shown graphically as a bar or rake scale (map scales shown graphically remain accurate when the

- map is reduced or enlarged),
- north arrow,
- explanation block or legend, and
- title block.

Every map, regardless of the size of the site, should include a scale that indicates the relationship between the size of features on the map and the size of the same features on the ground. Most scales are represented by stating that 1 inch on the map represents a certain number of inches, feet, or miles on the ground. The scale that best represents a site will depend on the detail required and the size of the site, however most mine/reclamation plan maps use a scale of 1 inch = 200 feet.

All maps must show true north. This is typically done by drawing a line oriented N-S with an arrow pointing north. The north arrow in conjunction with the scale allows the map to be properly oriented during field inspections and to be related to other maps.

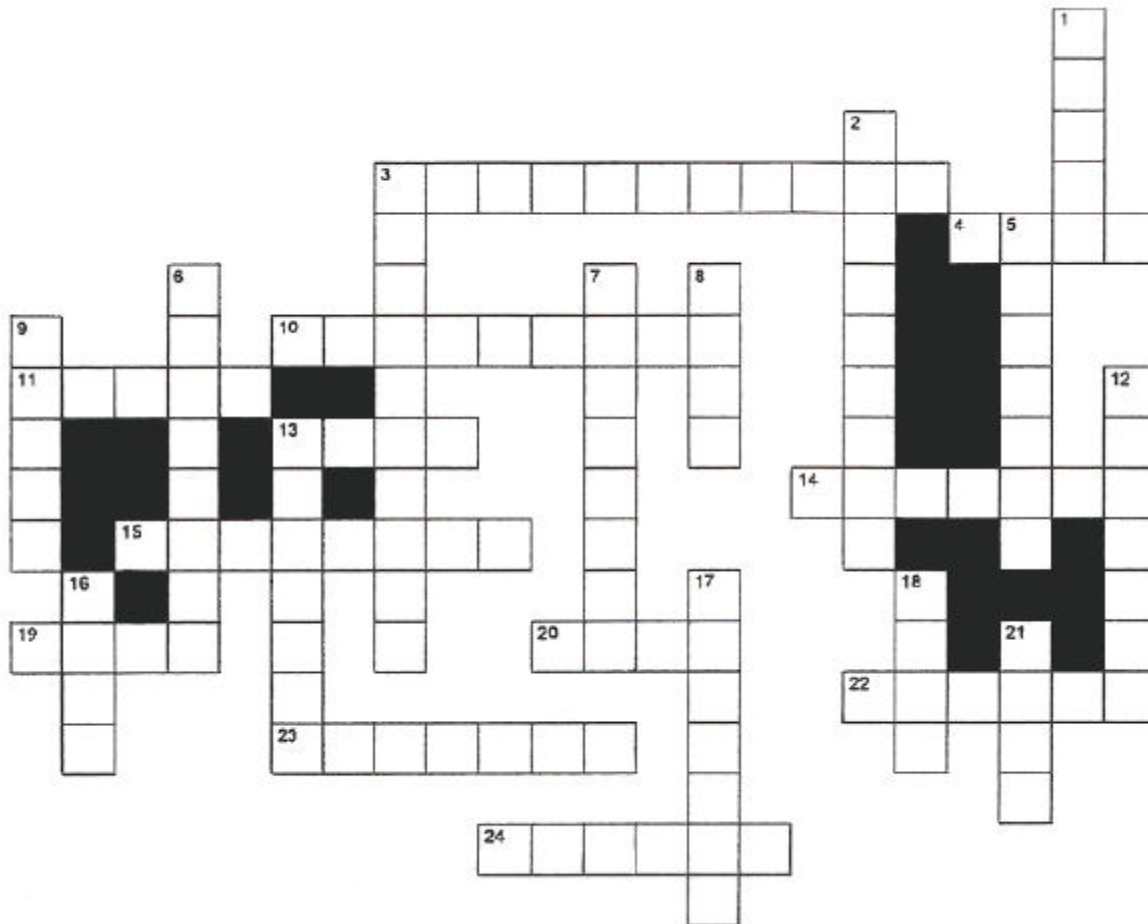
The explanation block or legend defines all symbols and patterns used and may contain the scale.

The title block should contain the following information (at a minimum):

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Mine Reclamation Crossword Puzzle

by Adele Lagomarsino, Compliance Analyst



Across

3. Land rehabilitation process
4. Undesirable plant
10. Natural setting end use
11. Organic groundcover
13. Plant ovule
14. Soil rich in humus
15. Naturally occurring inorganic compound
19. Growth media
20. PRC, Division 13, Section 21000
22. Indigenous
23. To roughen the ground surface
24. Protective armoring

Down

1. Incline
2. A permit stipulation or requirement
3. Replant
5. Process of wearing away
6. To replace material in an excavation
7. A standard reference condition or point
8. Dirt levee
9. California statutes for surface mine reclamation
12. Save for later use
13. Classification of plants and animals
16. Small body of water
17. Physical environment of a plant or animal
18. Detailed scheme
21. Plow

Maps as Management Tools

(Continued from page 8)

- title,
- application or permit number,
- name and address of applicant or permit holder(s)
- signature and stamp (if appropriate) of map preparer,
- map or exhibit number, and
- date map was drawn or revised.

Maps may range in size from 11 x 17 inches up to 22 x 34 inches depending on the information and detail required.

The *SMARA Update* is a quarterly publication of the Department of Conservation's Office of Mine Reclamation, 801 K Street, MS 09-06, Sacramento, California 95814, (916) 323-9198. Our web site address is <http://www.consrv.ca.gov/omr/index.htm>. The purpose of this publication will be that of imparting the latest in reclamation tips, as well as changes in legislation or interpretation of existing statutes by court decisions.

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